

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
UNITED STATES OF AMERICA	:	
- v. -	:	CONSENT PRELIMINARY ORDER OF FORFEITURE AS TO SPECIFIC PROPERTY
DARIUS DAVIS,	:	
Defendant.	:	24 Cr. <u>532</u> (PG)
	:	
-----	X	

WHEREAS, on or about September 6, 2024, DARIUS DAVIS (the “Defendant”), was charged in an Information, 24 Cr. 532 ( ) (the “Information”), with narcotics distribution and possession with intent to distribute, in violation of Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2 (Count One);

WHEREAS, the Information included a forfeiture allegation as to Count One of the Information, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offense charged in Count One of the Information, and any and all property used, or intended to be used, in any manner or part, to commit, and to facilitate the commission of the offense charged in Count One of the Information, including but not limited to the following specific property:

- a. one (1) Hi-Point JCP .40 caliber handgun with serial number X769102
- b. one (1) black extended magazine;
- c. one (1) black rifle scope;
- d. twenty-two (22) .40 caliber rounds of ammunition; and
- e. seventy dollars (\$70.00) in United States currency (the “Currency”);

(a. through e. collectively, the “Specific Property”), all of which were seized from the Defendant at the time of his arrest on or about February 29, 2024;

WHEREAS, on or about September 6<sup>th</sup>, 2024, the Defendant pled guilty to Count One of the Information, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Information and agreed to forfeit to the United States, pursuant to Title 21, United States Code, Section 853, all of his right, title, and interest in the Specific Property;

WHEREAS, the Defendant consents to the forfeiture of all of his right, title and interest in: (1) the Currency, which constitutes proceeds traceable to the commission of the offense charged in Count One of the Information that the Defendant personally obtained; and (2) the remaining Specific Property, which constitutes property used, or intended to be used, in any manner or part, to commit, and to facilitate the commission of the offense charged in Count One of the Information; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney Varun Gumaste, of counsel, and the Defendant and his counsel, Clay Kaminsky, Esq., that:

1. As a result of the offense charged in Count One of the Information, to which the Defendant pled guilty, all of the Defendant's right, title and interest in the Specific Property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture as to Specific Property is final as to the Defendant DARIUS DAVIS, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. Upon entry of this Consent Preliminary Order of Forfeiture as to Specific Property, the United States (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, [www.forfeiture.gov](http://www.forfeiture.gov). This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least thirty (30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii)

shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. Pursuant to 32.2 (b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

8. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.


9. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Specific Property, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

10. The signature page of this Consent Preliminary Order of Forfeiture as to Specific Property may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

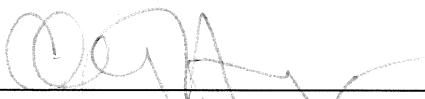
By:   
VARUN GUMASTE  
Assistant United States Attorney  
26 Federal Plaza, 37<sup>th</sup> Floor  
New York, NY 10007  
(212) 637-1023

9/6/24  
DATE

DARIUS DAVIS

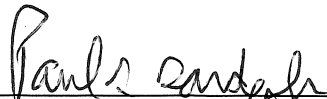
By:   
DARIUS DAVIS

9-6-2024  
DATE

By:   
CLAY KAMINSKY, ESQ.  
Attorney for Defendant  
52 Duane Street, 10<sup>th</sup> Floor  
New York, NY 10007

9/10/2024  
DATE

SO ORDERED:

  
HONORABLE PAUL G. GARDEPHE  
UNITED STATES DISTRICT JUDGE

September 6, 2024  
DATE